

TASK FORCE 10 REPORT TO THE METRO CHARTER COMMISSION

APRIL 29, 2010

Human Capital and Customer Service: Human Resource, Civil Service System, Employee Benefits, Pension, Innovation and Public Assistance Centers.

According to the Metropolitan Government Statute, TCA 7-2-108 (a) (17), the Commission has to specifically provide in the Charter:

For the maintenance and administration of an effective civil service system, and also for the consolidation of county and city employees' retirement and pension systems and the regulation of such consolidated system; provided, that nothing in chapters 1-6 of this title or in a charter adopted pursuant to those provisions shall impair or diminish the rights and privileges of the existing employees under civil service or in the existing county and city employees' retirement and pension systems.

I. BACKGROUND

Task Force 10 has enlisted expert resources from the private and public sector to guide its research and assist in formulating its recommendations. The Task Force consists of:

- Linda Kerley, Chair
- Julie Ellis, Co-Chair (Acting)
- J.W. Gibson
- Andre Fowlkes
- Kelley Thomas, Counsel, County
- Jack Payne, Counsel, City
- Brian Kuhn
- Matt Kuhn, CAO
- Donna Velez, Administrator

Private Sector Advisors:

- William J. Cahill, CPO FedEx (retired)
- Tim Briggs, CPO AutoZone
- Carol Ross-Spang, CPO Methodist
- Joe Saino
- Eric Mathews
- Cardell Orrin
- Sarah Petschonek

Public Sector Advisors:

- Sara Hall, former GC City of Memphis, GC MSCAA
- Rhoda Gillespie, CPO (acting) City of Memphis

- Mike Lewis, CPO Shelby County
- Waverly Seward
- David Pontius
- Jim Martin
- Commissioner Mike Ritz

The Task Force reviewed the following sources:

- History and Definition of Civil Service in the United States
- Deloitte Study on the Pension Crisis: “Paying for Tomorrow”
- Pat Hardy – Civil Service: some Pros Cons and Suggestions for Reform
- Benchmark Cities
- City and County of San Francisco Civil Service Reform “Preserving the Promise of Government”
- Charlotte personnel and benefit systems
- Prepared comments from Joe Saino

Task Force 10 has attached counsels’ comparative review of current City and County employment, classifications including numbers, numbers of job descriptions, civil service operations, current benefits and current unfunded retirement benefits.

In summary: Shelby County has 7,392 employees, with 5100 being civil service; Memphis has 7,235 employees, with 6,770 employees. In total the combined work force is: 14,627 with some 911 temporary employees.

As of June 30, 2010, the Shelby County pension fund is currently funded with a surplus of \$26,772,516. The unfunded liability for Other Post Employment Benefits OPEB is \$257,543,000, which is primarily health. Potential retirements in 2010 for Shelby County are approximately 789 employees. As of July 1, 2009, the Pension Valuation report shows an unfunded liability to retirees in the amount of \$449,527,000 and as of June 30 unfunded OPEB of \$934,240,000.

Task Force 10 has determined that Metro government deserves a modern and effective civil service employment system that is performance based and that is designed to ensure that Metro citizens receive the highest quality services from their government in the 21st Century.

The literature review and a review of our own current personnel systems that contain dual systems being part civil service and part employee at will reflect issues that affect all older municipal and state civil service systems. They reflect problems with hiring, evaluating, training, motivating and when necessary, firing employees and reflect older regressive systems which impede new processes and training for employees. They are legacy systems which create cumbersome processes which require reevaluation.

Our review has been about the system, not the current employees. Public employment must remain a noble calling and the new Metro government deserves the best of public employee people systems- or “an effective civil service” to ensure we provide the

highest quality of service by employees that have pride, dedication, integrity and talent as a result of fair treatment, opportunities for training and advancement. Metro government has to respond to a changing workforce as a good percentage of our workforce is nearing retirement. We must engage in succession planning, knowledge management and the recruitment of employees to replace those that will retire. We must engineer the most efficient hiring process to fill vacancies in new broader job classes and descriptions. Cumbersome hiring processes limit government's ability to provide competitive services to its citizens. We must use the best technology and methods.

Metro Government has to focus on performance as the key to success. The private sector systems, which have provided great benchmarking, rely on a commitment to performance indicated by performance evaluations and have the tools to influence excellence. We have to open doors to career development by giving our employees adequate training and professional development. We must have great managers who encourage and seek new ways of providing services and adapt to new learned skills. All employees should be given flexible training and educational opportunities to develop their careers. **Metro Government must provide a civil service system that is simple and governed to treat all employees fairly. It must provide clarity not confusion, be attentive rather than unresponsive and it must be accountable with appropriate financial partnership.**

Civil Service is simply defined as the body of employees in a government other than the military. In the United States it has evolved into a different classification of employees with a different set of formalized procedures and regulations administered by some third party committee. Only 9 cities in Tennessee with populations above 10,000 have formalized civil service systems and they are not standardized and vary from city to city to county. Civil Service began with the federal government in 1872 and was a reform movement to the spoils system where every public job was held at the pleasure of the President and any person could be fired at any time. The spoils system which civil service was intended to replace meant that jobs were used to support the political parties. Federal civil service moved to merit based processes that in many cases are examination driven as a reform, and reforms continue today to address critical service delivery.

Likewise, the civil service systems in local governments have been criticized as “straightjackets” on hiring and are universally blamed for what is widely perceived as a reduction in the quality of public employees. The civil service system has been described by one of our sources as “the most destructive system operating in government today”. **The “entitlement” of certain employees by the fact they “own” their jobs is said to impact the ability to change systems, hire the best qualified person and decrease the potential for collaboration by management—all decreasing the service to the citizens and increasing the cost. The civil service model based on specialized, hierarchical and longevity-based closed bureaucracies is being replaced by today’s best practices which mandate strong personnel policies and procedures and accountable management, based upon performance. The move toward productivity, customer service orientation, accountability for results and improved capacity to devise and track policies is what the best personnel systems deliver.**

TF10 has reviewed the current labor relations programs of the City and the County and has included labor relations as a mandated function of the HMR system. Since the various unions

and the City and County have operated by MOUs because Tennessee is an at will employment state, with 24 in the City and 8 in the County, a full review of these agreements should be part of the new HMR system development. **It is important that the Commission understand that TF 10 recommendations do not in any way seek to limit or change any employee's right to participate in a union or diminish union participation in developing a successful Human Resource Management system.** We do note that some of the agreements underlying labor relation operations date to the 1980s, and we see the creation of the new HMR system as an opportunity for unions and the new management in the Metro government to work collaboratively to improve services and the quality of government jobs. We have attached a memo from the city attorney which gives additional information.

TF 10 has also received guidance that municipal and county governments have to address the unfunded pension liability and unfunded health benefits which city and county retirees have earned and expect. As one of our Task Force resources, Joe Saino has stated, **“Over the next few years municipal fiscal prudence and the level of local tax burdens are likely to become one of the most important factors in whether businesses decide to locate in and create jobs in a particular community. If we act with vision, we can position Shelby County as a winner in the increasingly competitive market for jobs and industry”**. Mr. Saino has provided significant guidance on pension reform in addition to the wise counsel of David Pontius and Waverly Seward, and Jack Payne on behalf of the City, which the Task Force addresses in its recommendations. Many states and cities have initiated 401Ks and 457s defined contribution plans. TF 10 concurs with the finding of the Deloitte Study:

Switching to defined contribution plans is more practical for jurisdictions with reasonably funded retirement plans; these jurisdictions may be able to tolerate higher short-term costs in exchange for minimizing future costs.

Task Force 10 has determined from its research that Metro Government must adopt in its required “effective civil service system” which we are calling the HMR, a strong relationship between performance, pay, promotion, job security and recognition. In order to compete globally for economic investment in Memphis and Shelby County, Metro government has to have the best employee system to ensure we have delivered the highest quality of government service for a reasonable cost. Likewise, Metro government must ensure that it meets its obligations to retired employees. We believe a commitment to such obligation should be part of the Metro Charter.

II. RECOMMENDATIONS

Based upon our extensive review, which includes current systems and best practices in other cities and a review of the unfunded retirement liabilities which currently exist and are projected to exist for the city and county employees' retirement systems, **Task Force 10's**

recommendations include protecting current employees and their benefits, as required, and providing the Metro Government with a new civil service system of human resource management applicable to all employees. Innovation is seen as a core metric to be included in the design of the new HMR and the creation of job descriptions. Public Assistance Centers were addressed by Task Force 9.

1. The Charter shall authorize the creation of the Human Resource Management (“HRM”) System to be the required “effective civil service system” for all Metro government employment which is performance based, not longevity based, and which will not tolerate dishonesty, theft or unfair treatment or unlawful discrimination of any employee or citizen. The Charter shall require the HRM System to include policies and procedures which specify: recruitment practices and goals; broad families of job descriptions to enhance flexible hiring and compensation; benefits; training; employee performance reviews; program of paid time off which rewards attendance and discourage absences; management and staff reviews survey; fair treatment process; reward and recognition; communication; management development; labor relations management; and shall include as additional core metrics-- quality integration through strategic planning and budgeting; ethics; diversity; innovation; and customer service to encourage the most qualified, effective and competent people to work for the Metro Government.

2. The Charter shall require that the HRM System be molded on and incorporate the best practices of private sector human resources organizations and shall provide the necessary flexibility and decision making to management to ensure Metro government is empowered to increase the quality of service provided its citizens by highly motivated, effective performing, and innovative employees.

3. The HMR system shall be led by a chief personnel officer/director to be appointed by the Mayor and confirmed by the Council and who shall have the requisite executive level qualifications applicable to all executive level Metro positions. These shall include significant experience in the profession which may be shown by having been a member of Executive and Operating Committees for the entity; responsibility for complete function (e.g. Finance/Accounting/Treasury/Tax/AP/AR/IT); has made significant Capital Allocation decisions across functions of business units; has integrated functions and borne full accountability for multiple functions which achieve the strategies and goals of the organization; has set multi-year objective and long-term strategic direction and goals for an organization and has incorporated external factors into strategic thinking and planning (e.g. customers, competitors, macro-economics, government influences and regulations).

4. The HRM system shall be adopted by the Metro Council. Any amendment to the HRM system shall require the support of the chief personnel officer/director and the Mayor and shall require a super majority of the Council to amend any portion which may not be in conflict with the Charter requirements.

5. The Charter shall ensure that all employees are employed based upon their qualifications, which include education and experience, not political, religious or family affiliation, and that every employee of Metro Government is treated fairly regardless of their position. The Charter shall specify that no employee may hire, promote, discipline, reprimand, or otherwise effect the terms and conditions of any relative, as defined by the HRM System.

6. The Charter shall require a system of fair treatment including an internal employee grievance system where employees may report alleged illegal or unfair conduct and must ensure that an internal discipline system be used in cases of addressing serious employment offenses warranting termination, and that the system shall include an employee dispute resolution process wherein management and the employee meet to informally review issues and if unsuccessful, the right of the employee to internally appeal to a management committee, as defined by the HRM system to be comprised of Metro Government employees outside the employees' immediate job area. The system shall require that a fair treatment review system shall not be a compensated function.

7. The Charter shall provide that all chosen candidates for employment by Metro must satisfy required job related screening or other pre-employment requirements as specified by the HRM system, be subject to a probationary period not to exceed 90 days, and that the system specify that management shall conduct final interviews and is responsible for hiring and termination with guidance from the Human Resources Department and without influence from elected officials .

8. The Charter shall require a performance-based pay system which dictates all salary and wage increases except in those instances when an approved market rate adjustment for a specific classification has been made under procedures established in the HRM, requires performance reviews for all employees conducted at least annually, requires that annual compensation market- based studies include salary and wage ranges reviews and specifies that employee wage or salary increases shall be determined in accordance with the Chief Financial Officer and the approved Metro Budget

9. The Charter shall require that the HRM System include best practices to ensure key employee retention, leadership and talent development and training that is "outcome driven" using quality metrics and budgeting.

10. The Charter shall provide for a total governmental management structure that has no more than 4 levels of management depending upon the size of employee population they manage, with the first two levels of management being the (1) Mayor and Executive professional management positions, and (2) the Department Directors; however, recognizing that for Public Safety (police, sheriff, fire) uniform ranks exist and may continue.

11. The Charter shall require that a comprehensive policy manual be developed and kept current which is available to all employees in plain language

and a handbook summarizing key policies be provided all new employees immediately upon hire, and confirmed by the new hire which becomes a part of the employee's personnel file.

12. The Charter shall require a biannual review of personnel policies, job classifications, staffing, compensation, benefits and employment programs and processes by a full service Human Resource Management consulting firm with specific recommendations for implementation to be coordinated with the Department of Strategic Planning, Quality and Budget, and shall authorize the retention and funding of such expertise, and initial funding for development of the Metro Human Resource Management System. The first comprehensive review shall be delivered to the Mayor and Council no later than December 31, 2012, having been fully coordinated with all Metro Government.

13. The Charter shall provide that all employees of the former City and County governments become employees of the Metro Government without any loss of salary held as of the effective date of Metro Government. The Charter shall ensure continuity of the privileges of the existing civil service employees of Shelby County and the City of Memphis as of the effective date of the Charter and shall preserve the right of any civil service employee to transfer to the HRM system.. The maintenance and administration of the former civil service employment systems shall be in accordance with applicable law, and shall have one appointed and unpaid civil service board hearing all matters for civil service employees as defined by Metro Government to ensure consistent and fair treatment.

14. The Charter shall provide that permanent Metro employee benefits include a system of health benefits, disability program, and premiums for Metro employees commensurate with the private sector and Metro biannual reviews, and a retirement benefit program for new Metro employees and non-vested former City or County employees as of the effective date of the Charter, with Metro Government making the employer contribution for Social Security for each such employee and providing a retirement plan which limits employer and taxpayer exposure to investment risk by ensuring that the ultimate retirement benefits are determined by the performance of an employee's retirement investments, consistent with recognized financial sound principles and continued best practices in the public and private sectors.

15. The Charter shall provide for the consolidated administration, regulation and maintenance of county and city employees' retirement systems with every employee governed by the pension rules applicable to them as of the effective date of the Charter, and shall ensure that existing rights under such pension plan shall not be impaired or diminished, but the right to alter such plan elements shall remain as contained in each such plan.

16. The Charter shall require that the Metro government adopt a plan for retiring any unfunded pension liability of the Shelby County and Memphis pension

plans to further protect retirees of the City and County and likewise adopt a plan to address the unfunded liability of OPEBs for former City and County employees.